

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MANN CONSTRUCTION, INC., <i>et al.</i>)	CASE NO. 1:20-cv-11307-TLL-PTM
)	
Plaintiffs,)	
)	JUDGE THOMAS L. LUDINGTON
v.)	
)	
)	
UNITED STATES OF AMERICA,)	<u>PLAINTIFFS' MOTION FOR LEAVE TO</u>
)	<u>FILE SURREPLY IN FURTHER</u>
Defendant.)	<u>OPPOSITION TO DEFENDANT'S</u>
)	<u>MOTION TO DISMISS</u>
)	

Now come Plaintiffs, Mann Construction, Inc., Brook Wood, Kimberly Wood, Lee Coughlin, and Debbie Coughlin (collectively the “Plaintiffs”), by and through their undersigned counsel, and respectfully move the Court for leave to file a brief Surreply in response to the Reply Brief filed by Defendant on September 24, 2020 (Doc. 19). A copy of the Plaintiffs’ proposed Surreply is attached hereto as Exhibit A. Defendant’s Reply Brief broadens the scope of plans targeted by the Notice by making several factual averments that are inaccurate and/or seriously misleading and, therefore, a response by Plaintiffs is necessitated. In particular, in its Reply Brief, Defendant disregards the express language of Notice 2007-83 and improperly suggests disclosure is required merely because a so-called cash value insurance policy funds a death benefit. Plaintiffs also believe it is necessary to inform the Court that Defendant has asserted a legal position in this case that is entirely inconsistent with the legal position asserted by the government on a similar issue in a case currently pending before the United States Supreme Court.

In accordance with E.D. Mich. L. Civ. R. 7.1(a), Plaintiffs' undersigned counsel advises that they have conferred with Defendant's counsel regarding the need to file the attached Surreply. However, the Defendant declined to concur with the relief requested herein.

Respectfully submitted,

/s/ Matthew C. Miller

MATTHEW C. MILLER (OH #0084977)

MMiller@westonhurd.com

WESTON HURD LLP

1301 E. 9th St., Suite 1900

Cleveland, Ohio 44114

(216) 241-6602 / (216) 621-8369 (Fax)

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the Court's electronic filing system this 1st day of October, 2020.

/s/ Matthew C. Miller

MATTHEW C. MILLER (0084977)